

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

JANET AYUSO-FIGUEROA

Plaintiff

v.

Civil No. 02-1606(SEC)

VICTOR RIVERA-GONZALEZ, et al.

Defendants

**ORDER**

MOTION	RULING
<b>Docket # 70 Motion Requesting Entry of Default and Other Sanctions</b>	<p><b>DENIED.</b> Plaintiff has filed a motion seeking that the Court enter default against Defendants or otherwise sanction them for failing to comply with her discovery requests (Docket # 70). However, as documented by Defendants in their opposition, it appears that Defendants have provided the requested discovery object of the Court's April 21, 2005 Order (Docket # 67). Therefore, at this juncture and without further information as to Defendants' alleged failure to comply with further discovery requests, we will <b>DENY</b> Plaintiff's motion for the entry of default and/or the imposition of sanctions.</p>
<b>Docket # 123 Motion for Reconsideration</b>	<p><b>DENIED.</b> Plaintiff has filed a motion for reconsideration of the Court's order granting Defendants' leave to file a reply to some additional facts included by Plaintiff in her Statement of Material Facts in Support of Oppositions to Motions for Summary Judgment. <u>See</u> Dockets ## 113, 121-123. Plaintiff avers that Defendants' request should have been denied as untimely and because said additional facts were clearly stated and highlighted in a way that Defendants could have controverted said facts in a timely fashion. While it is true that Defendants should have sought leave to reply within the time allowed by the rules and that Plaintiff's additional facts were both clearly stated and highlighted, we will not set aside our previous order allowing Defendants' reply statement. We explain.</p> <p>Local Rule 56(c) provides that a party opposing a statement of material facts should include a <b>separate section</b> with additional facts <b>set forth in separate numbered paragraphs</b> and supported by a record citation. Local Rule 56(c). A cursory view of Plaintiff's additional facts reveals that said facts do not comport with the requirements set forth by the Local Rules as Plaintiff merely incorporated the additional facts into her statement of facts contesting Defendants' statement of material facts. Thus, since, strictly speaking, Plaintiff failed to comply with said rule, it is only fair and reasonable to allow Defendants additional flexibility in the filing of their reply statement even though their request was untimely (Per Rule 6 of the Federal Rules of Civil Procedure, Defendants had until August 4 to seek leave to reply, instead, Defendants' motion was filed on August 9). Accordingly, Plaintiff's motion for reconsideration is <b>DENIED</b>.</p>

MOTION	RULING
<b>Docket # 127 Motion for Leave to File Sur-reply Statement</b>	<b>GRANTED.</b>
<b>Docket # 130 Defendants' Objection to Plaintiff's Motion For Leave to File Surreply Statement and Motion to Strike Docket Entries 128 and 129</b>	<b>NOTED and DENIED.</b> Leave to file a sur-reply was timely filed by Plaintiff and has been granted. <u>See</u> Ruling in Docket # 127. Thus, Defendants' motion to strike Plaintiff's motion in Docket # 129 is <b>DENIED</b> .

DATE: November 17, 2005

*S/ Salvador E. Casellas*  
SALVADOR E. CASELLAS  
U.S. Senior District Judge